

REMARKS

Claims 1-10 are pending. No new matter has been entered.

Claims 1 and 6 are combined and features previously added to Claim 1 were removed. It is respectfully submitted this does not present new issues requiring a search because original Claim 1 lacked the features removed by this Amendment.

Claim 1 was also amended to provide antecedent basis for the term "the second barrier element".

Claim 6 is amended to recite a feature supported in the originally filed specification at Fig. 1 and page 2, lines 2-4 and lines 19-20.

Prior to issuing a further communication, Applicant respectfully requests the Examiner contact the undersigned in order to schedule a Personal Interview.

I. Claim Objections

Claim 1 stands objected to for informal matters. In response, claim 1 has been amended to remove any lack of antecedent basis.

II. 35 USC 102

Claims 1-6, 9, and 10 stand rejected under 35 USC § 102(b) as allegedly being anticipated by Englund (U.S. Patent No. 6,203,242).

A. Englund Lacks a Tenon and Mortise Connecting System

Independent Claim 1 recites the first base plate comprising parts of a first tenon and mortise connecting system; and recites the second connecting means comprising parts of a second tenon and mortise connecting system.

Independent Claim 10 recites a "base plate further comprises a tenon and mortise connection system having one of a tenon and a mortise arranged in the fixing portion extending from one of the left end or right end of the guide element, and the other of the tenon and mortise being arranged in the base plate at the other of the left end or right end of the guide element, so that the barrier element is connectable via the tenon and mortise arrangement to another barrier

element"

"*Mortise and tenon*" is a term of art defined as "A type of joint, principally used for wood, in which a hole, slot or groove (mortise) in one member is fitted with a projection (tenon) from the second member." McGraw-Hill Dictionary of Scientific and Technical Terms, 5th edition (1972), provided as an attachment hereto. Englund does not disclose a tenon and mortise system. Englund, at best, has a rod passing through two "mortises." There is no tenon.

Thus, the Section 102 rejection is overcome.

B. Englund does not have fixing means for accommodating a fixing element for fixing the first barrier element relative to the carriageway

Present claim 1 recites "fixing means for accommodating a fixing element for fixing the first barrier element relative to the carriageway." Claim 1 recites the fixing means include feed-through holes. The holes are in addition to the holes of the tenon and mortise system.

Claim 10 also recites

"the fixing portion has at least one feed-through hole therein to permit a fixing element to pass through the hole and secure the barrier element to the carriageway, and

wherein the base plate further comprises a tenon and mortise connection system...."

The "connecting system" of Englund consists of brackets 5, 6, 5', and 6', and their only holes are used for passing a rod 8 therethrough to form a hinge which allows the barrier elements to move. The holes in the brackets of Englund are not intended for bolting the barrier elements to the carriageway. Furthermore, it is impossible to fix the first end of a first barrier element of Englund, and then fix a second barrier element of Englund using the same holes, as such holes will already be occupied by the fixing elements.

Thus, (1) Englund lacks the additional feed-through hole of claims 1 and 10, and (2) the teachings of Englund actually teach away from the presently claimed invention.

Thus, either elements 6 and 8, not 5 and 8, of Englund cannot be "a first tenon and mortise connecting system," as alleged by the Office Action.

Moreover, rod 8 of Englund is described as interconnecting barrier elements, allowing

relative pivoting thereof. There is neither a teaching nor suggestion to modify the structure of Englund such that rod 8 affixes the barrier elements to the carriageway. In fact, the barrier elements of the reference are “longitudinally displaceable relative to each other” (column 6, lines 2-3). If the barrier elements of Englund included the fixing element as present claimed, such movement would not be possible.

The Office Action further asserts the fixing means for accommodating a fixing element for fixing the first barrier element relative to the carriage way recited by claim 1 is an intended use. Applicant respectfully disagrees. In claim 1 the fixing means defines the additional feed-through hole for passing the fixing element therethrough. In claim 10 the fixing portion defines the additional feed-through hole for passing the fixing element therethrough. As explained above, the feed-through hole is in addition to the hole of the tenon and mortise system and Englund lacks the additional hole.

Thus, as Englund neither teaches nor suggests each and every feature of the claims, Applicant respectfully submits this reference neither anticipates nor renders obvious, any of the present claims.

C. Dependent Claims Further Distinguish Over Englund

Claim 3 recites a feed through bush between the fixing plate and the foot part. ENglund lacks this.

Claim 4 recites the fixing means are fitted near the guide element. Englund does not disclose fixing means.

Claim 5 recites the holes of the fixing means are within the interior of the second barrier element. Englund lacks this.

III. 35 USC 103

Claims 7 and 8 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over the Englund.

Claim 7 recites the base plate and the fixing plate are the same plate and there are six holes therein, two of which are fitted near the foot. Englund lacks this and provides no motivation for this since Englund wants its barrier elements to pivot.

Claim 8 recites four of the remaining six holes in the base plate are fitted on the corner points of a rectangle. It would be illogical to have such an arrangement where Englund wants its barrier elements to pivot.

III. Conclusion

As all objections and rejections have been overcome by this Amendment, Applicant respectfully requests entry thereof and passage of this application to allowance. However, Applicant again requests the Examiner contact the undersigned to schedule a Personal Interview prior to issuing a further communication.

If there are any issues which may be best resolved via telephone, please contact the undersigned attorney at the local Washington, D.C. telephone number listed herein below.

If any additional fee is necessary to make this paper, or any paper filed herewith, timely and/or complete, such fee may be deducted from deposit account no. 19-4375.

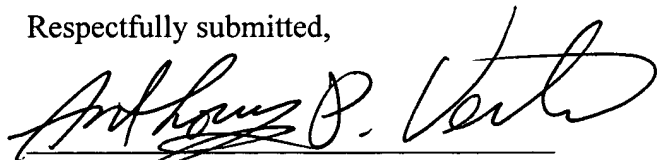
Date:

July 6, 2006

APV/EPR

Respectfully submitted,

By:



Anthony F. Venturino
Registration No. 31,674

ATTORNEY DOCKET NO. APV31827
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L STREET, N.W., SUITE 850
WASHINGTON, D.C. 20036
TEL. 202-785-0100 / FAX. 202-785-0200